

## § 2200.209

the conditions and time limits set by the Judge.

### § 2200.209 Hearing.

(a) *Procedures.* As soon as practicable after the conclusion of the pre-hearing conference, the Judge will hold a hearing on any issue that remains in dispute. The hearing will be in accordance with subpart E of these rules, except for § 2200.60, 2200.73, and 2200.74 which will not apply.

(b) *Agreements.* At the beginning of the hearing, the Judge will enter into the record all agreements reached by the parties as well as defenses raised during the pre-hearing conference. The parties and the Judge then will attempt to resolve or narrow the remaining issues. The Judge will enter into the record any further agreements reached by the parties.

(c) *Evidence.* The Judge will receive oral, physical, or documentary evidence that is not irrelevant, unduly repetitious or unreliable. Testimony will be given under oath or affirmation. The Federal Rules of Evidence do not apply.

(d) *Reporter.* A reporter will be present at the hearing. An official verbatim transcript of the hearing will be prepared and filed with the Judge. Parties may purchase copies of the transcript from the reporter.

(e) *Oral and written argument.* Each party may present oral argument at the close of the hearing. Post-hearing briefs will not be allowed except by order of the Judge.

(f) *Judge's decision.* Where practicable, the Judge will render his or her decision from the bench. In rendering his or her decision from the bench, the Judge shall state the issues in the case and make clear both his or her findings of fact and conclusions of law on the record. The Judge shall reduce his or her order in the matter to writing and transmit it to the parties as soon as practicable, but no later than 45 days after the hearing. All relevant transcript paragraphs and pages shall be excerpted and included in the decision. Alternatively, within 45 days of the hearing, the Judge will issue a written decision. The decision will be in accordance with § 2200.90. If additional

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time is needed, approval of the Chief is required.

(g) *Filing of Judge's decision with the Executive Secretary.* When the Judge issues a written decision, it shall be filed simultaneously with the Commission and the parties. Once the Judge's order is transmitted to the Executive Secretary, § 2200.90(b) applies, with the exception of the 21 day period provided for in rule § 2200.90(b)(2).

[60 FR 41809, Aug. 14, 1995, as amended at 62 FR 40934, July 31, 1997]

### § 2200.210 Review of Judge's decision.

Any party may petition for Commission review of the Judge's decision as provided in § 2200.91. After the issuance of the Judge's written decision or order, the parties may pursue the case following the rules in subpart F.

### § 2200.211 Applicability of subparts A through G.

The provisions of subpart D (except for § 2200.57) and §§ 2200.34, 2200.37(d)(5), 2200.38, 2200.71, 2200.73 and 2200.74 will not apply to E-Z Trials. All other rules contained in Subparts A through G of the Commission's rules of procedure will apply when consistent with the rules in this subpart governing E-Z Trials.

## PART 2201—REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Sec.

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AUTHORITY: 29 U.S.C. 661(g); 5 U.S.C. 552.

SOURCE: 53 FR 17930, May 19, 1988, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 2201 appear at 61 FR 14024, Mar. 29, 1996.